

Another brick in the wall?

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Following several military operations by the Kingdom of Morocco, the Polisario Front is no longer committed to the 1991 ceasefire agreement. This marks the end to an almost thirty-year-absence of open hostilities in the region, which largely has been under Moroccan occupation since 1976. This poses yet another threat to the people's rights to self-determination and puts a spotlight on the EU's silence on its implications in the conflict. The EU and Morocco have longstanding [economic relations](#). It is this author's opinion that trading with the occupying power Morocco over land and resources – like [fish](#), [phosphate](#) or [wind](#) as an energy resource – against the express consent of the people concerned, does in fact constitute a violation of the Sahrawi's right of self-determination. This position is in strong disagreement with official EU [reports](#) indicating a standard of objective economic benefits, entirely detached from the people's consent. This is nothing short of turning a blind eye on who in fact enjoys the benefits of the economic exploitation of Western Sahara's resources.

Recent developments

Last week, Moroccan forces launched an operation to intervene in what they [described](#) as “provocations” and “blockades” by the Polisario Front, the representatives of the Sahrawi people, in the Guerguerat region on the border of Western Sahara and Mauritania. According to Morocco, this followed a request from Moroccan truck drivers who were denied entry into the buffer zone. Guerguerat is located on the most important road connecting Mauritania and sub-Saharan Africa with the Moroccan-controlled areas of Western Sahara. While most of the Western territory is under Moroccan occupation, giving Morocco full access to the coast and waters adjacent to it as well as a direct corridor to its sovereign territory, the Eastern part and most of the border region to Mauritania is under Sahrawi control. There is an additional buffer zone between the Moroccan- and Sahrawi-controlled areas, which includes Guerguerat. This continuously led to tensions in the Southern region, with both parties regularly violating the buffer zone, e.g. in [2016](#) and [2017](#).

On 14 November 2020, Mr Brahim Gali – President of the self-proclaimed Saharan Arab Democratic Republic (SADR), Secretary-General of the Polisario Front, and Supreme Commander of the Armed Forces – officially [declared](#) an end to the Polisario Front's commitment to the ceasefire. This was preceded by a [warning](#) issued on Monday stating that “entry of any Moroccan forces or elements into Liberated Sahrawi Territories is blatant aggression and will be responded to firmly”. In 2019, Mr Gali expressed his concern about ongoing violations of Morocco in the buffer zone in Guerguerat and had urgently [requested](#) the reappointment of a UN Personal Envoy to Western Sahara as well as a renewal of the mandate for MINURSO from the UN Security Council.

Immediate reactions

On 13 November 2020, in a [statement](#), UN Secretary-General Antonio Guterres expressed his “regrets that [the efforts of the UN peacekeeping mission MINURSO] have proved unsuccessful”, voiced “grave concern regarding the possible consequences of the latest developments” and stated that he “remains committed to doing his utmost to avoid the collapse of the ceasefire”.

Mr Moussa Faki Mahamat, Chairperson of the African Union Commission, similarly “expresses his deep concern following the deterioration of the situation in the Western Sahara, especially in the buffer zone of Guerguerat, and the serious threats of breaching the ceasefire in force since 1991” in a [communiqué](#) on 14 November 2020. He also reaffirmed “the readiness of the African Union to actively support the efforts of the United Nations for a just political solution acceptable to all parties to this conflict”. The African Union (AU) has [recognized](#) the statehood of the SADR, which has been a full-fledged member of the AU (formerly Organization of African Unity) since 1984. As a reaction, Morocco had left the AU that same year and [rejoined](#) only recently.

On 15 November 2020, EU High Representative Josep Borrell met with the foreign ministers of both Morocco and Algeria, a longstanding supporter of the Sahrawi people and base of the SADR’s government in exile, to [discuss](#) the recent developments and recall the EU’s commitment to the UN peacekeeping efforts, including MINURSO’s mandate. Unfortunately, there were no representatives of the Sahrawi people present.

A brief history of the conflict

Western Sahara is listed by the UN as one of the last remaining [non-self-governing territories](#). Spain, the former colonizing power of the region, is still listed as its administering power. Both Spain and Morocco, however, claim that following the [Madrid Accord](#), Morocco replaced Spain as Western Sahara’s administering power. This position finds no support in international legal scholarship, which – in line with several UN General Assembly Resolutions – classifies Morocco’s presence as “belligerent occupation” (see [here](#) and [here](#)). The ICJ in its 1975 Western Sahara Advisory Opinion reaffirmed the right of the Sahrawi people to self-determination (see [here](#), para 70). Morocco does not recognize the Advisory Opinion, [stating](#) the territory was not *terra nullius* prior to European colonization because Moroccan sultans maintained long-standing historical and cultural ties of sovereignty with the local population, making it the sovereign over the territory after decolonization. It has since boycotted the holding of an internationally recognized referendum, which the UN, under its peacekeeping mission MINURSO, is mandated to facilitate.

Political implications

The latest escalations in this longstanding conflict seem to be in line with continued attacks on people’s rights to self-determination in the wider Mediterranean region. The very recent flare-up of the conflict surrounding Nagorno-Karabakh, while concerned with many intricate questions of international law, will not be featured here as the claims for (external) self-determination deserve a separate in-depth analysis (for an overview see [here](#)). At least prior to recent events, the international

community recognized Azerbaijan's sovereignty over the contested territory and was divided on the scope of self-determination of Nagorno-Karabakh's people (see UN SC Resolution [62/243](#)).

However, just as recently, at the 37th anniversary of the Turkish Cypriot's declaration of independence, Turkey suggested a two-state solution to the conflict between the Northern and Southern part of the Republic of Cyprus, [stating](#) they constitute "two separate peoples and states". This seriously inhibits the reunification efforts by the UN and other regional organization, such as the EU of which Cyprus became a Member State in 2004. The EU [reaffirmed](#) that its "message is very clear: there is no alternative to a comprehensive settlement of the Cyprus problem other than on the basis of relevant UN Security Council Resolutions". This is only the latest of many Turkish efforts to demonstrate its regional power (for an overview of the ongoing dispute about maritime borders in the Aegean, see e.g. [here](#)) but also its refusal to respect the internationally recognized rights of the Cypriot people.

But Morocco and Turkey aren't the only power players in the wider Mediterranean region: Israel has [resumed construction](#) of entirely new settlements on Palestinian territory, thereby further violating the Palestinians right to self-determination (see [here](#), at para. 122). Entire villages were torn down in the process, leaving Palestinian families homeless and especially vulnerable during the ongoing pandemic. This demonstrates the increasing alienation of Israel's current administration from the international rule of law, at the center of which lies the Palestinian's right to self-determination.

Morocco's unwillingness to accommodate to the Sahrawis' rights and its openness to escalate the situation thus stands in line with the overall development in the region. There have been [rumors](#) that, following the United Arab Emirates (UAE), Morocco would recognize Israel's statehood in exchange for the US's recognition of its sovereignty over Western Sahara, intertwining the regional conflicts even further. These speculations have since been [denied](#) by relevant US officials.

The EU's silence

Apart from a couple of press releases, the EU has not come close to exerting its full regional force against these attacks on the rights of peoples to self-determination, and on the observance of international law more generally. Apart from very specific [sanctions](#) against Turkish individuals following unauthorized drilling activities in Cypriot waters last year – which is unsurprising, considering that Cyprus is a Member State of the EU – the EU has not taken meaningful legal or political steps to ensure the observance of international law in the region. This is especially problematic, since the EU has longstanding relations to the relevant actors – Morocco, Israel and Turkey – but has until now refused to deprive them of the [fruits of their occupation](#). Quite the opposite: the EU very recently renewed its [trade agreements](#) with Morocco to now explicitly include the territory of Western Sahara, implying Moroccan treaty-making capacity over it. It's this author's opinion that this constitutes a violation of the Sahrawi people's right of self-determination but more

importantly, a violation of the relevant CJEU decisions on the matter (see [here](#) and [here](#)).

It remains to be seen what role the EU will play, now that self-determination struggles are re-emerging all around it.

